

10-14-03 #32173



PATENT
Attorney Docket No. 210278

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Peter J.
Ortoleva

RECEIVED

OCT 22 2003

Application No. 09/818,752

Technology Center 2100

Art Unit: 2173

Examiner: Unassigned

Filed: March 27, 2001

For: METHODS AND SYSTEMS FOR
SIMULATION-ENHANCED FRACTURE
DETECTIONS IN SEDIMENTARY BASINS

**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT
AND CHANGE OF CORRESPONDENCE ADDRESS**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir or Madam:

Please withdraw me as attorney/agent for the above-identified application and all attorneys of the firm Leydig, Voit & Mayer, Ltd., associated with the Customer Number:

23460

1. Reason for Withdrawal

The basis for the request for withdrawal is 37 CFR § 10.40(c)(1)(vi). Applicant has been delinquent in payment of invoices dating as far back as December 25, 2001. After sending numerous reminder statements to the client, letters dated June 27, 2003, and August 18, 2003, (Exhibits A and B) were sent reminding him of the outstanding invoices and offering to negotiate a payment plan. However, the client still did not satisfy the outstanding account balance. On September 10, 2003, we notified the client by facsimile transmission with confirmation sent by courier (Exhibit C) that we would withdraw our representation as attorneys of record in the pending application. Since the client has not paid for services and costs rendered with respect to this matter for an unreasonable period of time, withdrawal of representation is appropriate.

In re Appln. of Ortoleva
Application No. 09/818,752

2. Correspondence Address

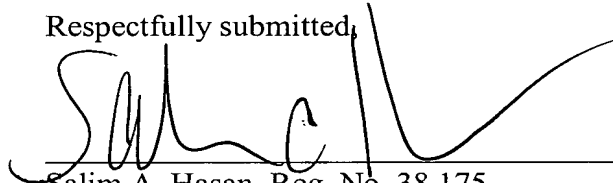
- ☐ The correspondence address is NOT affected by this withdrawal
☒ Change the correspondence address and direct all future correspondence to:

☐ Customer Number:

OR

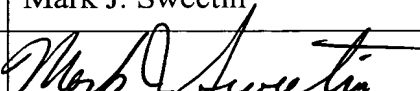
☒ Firm or Individual Name: Peter J. Ortoleva
Address: Indiana University
Address: Department of Chemistry, Room C-203
City: Bloomington State: IL
Country: U.S. Zip: 47405
Telephone: 812-855-2717 Fax: 812-855-8300

Respectfully submitted,



Salim A. Hasan, Reg. No. 38,175
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson
Chicago, Illinois 60601-6780
(312) 616-5600 (telephone)
(312) 616-5700 (facsimile)

Date: October 10, 2003

CERTIFICATE OF MAILING UNDER 37 CFR 1.10			
I hereby certify that this Response to Office Action and all accompanying documents are being deposited with the United States Postal Service on October 10, 2003, in an envelope as "EXPRESS MAIL POST OFFICE TO ADDRESSEE" service under 37 CFR 1.10, Mailing Label Number EV336876680US, addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.			
Name (Print/Type)	Mark J. Sweetin		
Signature		Date	October 10, 2003



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June 27, 2003

VIA FACSIMILE
CONFIRMATION VIA 1ST CLASS MAIL

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OF COUNSEL:

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THEODORE W. ANDERSON JOHN D. FOSTER*
JOHN P. BUNDOCK, JR.* NOEL I. SMITH

TECHNICAL ADVISORS

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KRISTEN J. HARRELL RICHARD P. DODSON*
MELISSA E. KOLOM TROY S. KLECKLEY
CARYN C. BORG-BREEN KRISTI A. CALVERT

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OCT 22 2003

Technology Center 2100

Dr. Peter J. Ortoleva
Department of Chemistry
Indiana University
800 E. Kirkwood Avenue
Bloomington, Indiana 47405-7102

Re: Outstanding Invoices & Patent Family Status Chart

Dear Peter:

Further to our phone conversation of May 21, 2003, we have enclosed a Status Report of the cases handled by our firm on your behalf and copies of invoices for services rendered in connection with these cases.

With respect to the U.S. applications, as you can see from the chart, we are awaiting Office Actions from the U.S. Patent and Trademark Office. However, we still need to submit the prior art, of which you are aware, as we have discussed at length in previous correspondence. Please send us the prior art so we can satisfy your duty of disclosure.

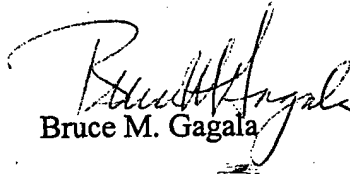
In addition, we have received the International Preliminary Examination Report (IPER) from the U.S. Patent and Trademark Office, which acted as the International Preliminary Examining Authority (IPEA) with respect to international application no. PCT/US01/48589. A copy of the IPER is enclosed for your records.

Dr. Peter J. Ortoleva
June 27, 2003
Page 2

We would appreciate it if you would settle the outstanding invoices immediately. However, we are willing to consider a monthly payment plan if you are interested. We must insist that you begin to make progress toward settling your account with us and remain willing to work out terms of payment with you.

Very truly yours,

LEYDIG, VOIT & MAYER, LTD.



Bruce M. Gagala

BMG/mjs
Enclosures (w/ confirmation copy)



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August 18, 2003

**VIA FACSIMILE AND
FIRST-CLASS MAIL**

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OCT 22 2003

Technology Center 2100

Peter J. Ortoleva, Ph.D.
Indiana University
Department of Chemistry
Room C-203
Bloomington, Indiana 47405

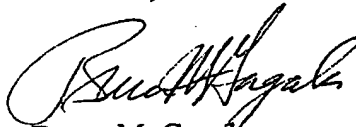
Re: Outstanding Account Balance - \$3,696.32

Dear Dr. Ortoleva,

We have tried repeatedly over the past eight months to contact you to reach some kind of understanding regarding your outstanding account balance. We have sent letters, e-mails, and left messages, but as yet, have not heard from you regarding this issue. In the last communication to you, we even have offered to negotiate a payment plan that would satisfy both of us. However, since you have chosen not to respond to our requests that you contact us, we feel that we have no choice but to turn your account over to an outside collection agency. If we have not heard from you by September 5, 2003, we will send your account to Dun & Bradstreet to begin collection proceedings.

Very truly yours,

LEYDIG, VOIT & MAYER, LTD.


Bruce M. Gagala

BMG/mjd

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JOHN P. BUNDOCK, JR.* NOEL I. SMITH

TECHNICAL ADVISORS

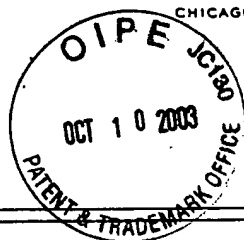
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WASHINGTON, D.C.
ROCKFORD, ILLINOIS

PLEASE
REMIT TO
CHICAGO OFFICE



WIRE FUNDS TO: AMERICAN NATIONAL BANK & TRUST CO. OF CHICAGO
120 SOUTH LA SALLE STREET, CHICAGO, ILLINOIS 60603-3400 ACCOUNT NO. 885975

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PETER J. ORTOLEVA, PH.D.
INDIANA UNIVERSITY
DEPARTMENT OF CHEMISTRY
ROOM C-203
BLOOMINGTON, IN 47405

OCT 22 2003
Technology Center 2100

Client Number
C0148 -000

----- REMINDER STATEMENT -----
August 12, 2003

Atty: BMG

The invoice(s) listed below are unpaid as of the above date. Please check your records. If invoices are recently paid, disregard statement. If you need any copies or find any discrepancies contact me at:

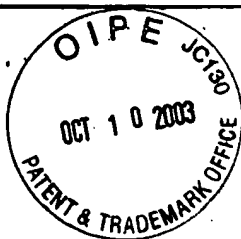
Phone: (312) 616-5715 / E-mail: jsimmons@leydig.com / Fax: (312) 616-5700

Joni Simmons

INVOICE NUMBER	AMOUNT	DATE	PAYMENTS OR ADJUSTMENTS	REMAINING BALANCE
684867	\$458.00	12/25/2001	\$377.44	\$80.56
693675	802.50	1/25/2002	716.00	86.50
698191	2,392.50	2/25/2002	2,350.00	42.50
703932	37.70	3/25/2002	.20	37.50
716763	44.00	5/25/2002		44.00
722954	1,360.47	6/25/2002		1,360.47
729007	839.71	7/25/2002		839.71
735437	1,049.00	8/25/2002		1,049.00
746099	156.08	10/25/2002		156.08

TOTAL BALANCE \$3,696.32

Current Invoices.....
31-60 Days Past Due...
61-90 Days Past Due...
91-120 Days Past Due..
Over 120 Days Past Due \$3,696.32



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LEONDO R. PHIFER

December 6, 2000

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OCT 22 2003

Technology Center 2100

Peter J. Ortoleva, Ph.D.
Distinguished Professor of Chemistry
and Geological Sciences
Laboratory for Computational
Geodynamics, Director
Indiana University, Department of Chemistry
Room C203
Bloomington, Indiana 47405

Re: Terms of Legal Representation
Our Reference: 207706

Dear Peter:

We are pleased that you have considered engaging our firm, Leydig, Voit & Mayer, Ltd., to represent you. This letter sets forth the terms by which our firm will undertake that representation.

1. *Client and Scope of Representation*

Our firm's client is Peter J. Ortoleva, Ph.D., as an individual (also referred to as "you" herein). Leydig, Voit & Mayer, Ltd. will represent you in connection with intellectual property matters. Your continuing requests for and receipt of our firm's services acknowledges your agreement with the terms of representation set forth herein. This document sets forth all the terms of our firm's representation of you, and these terms cannot be modified in writing by the legal representatives of our firm and you.

2. *Fees and Expenses*

The fees of our firm will be based upon our firm's determination of the value of our firm's services and the expenses (including out-of-pocket disbursements) our firm incurs as a result of our firm's representation of you. Our firm determines the value of our firm's services primarily through analysis of the time required by the lawyers and legal assistants of our firm to handle matters relating to the representation at nominal hourly rates based upon the experience and respective contributions of such lawyers and legal assistants. The current hourly rates for attorneys and technical assistants in our firm range from \$110 to \$375, and the hourly rates for legal assistants range from \$50 to \$100. The assigned hourly rates are adjusted from time-to-time (generally once a year) and are subject to change during the course of the representation. Any estimate of fees and expenses is an estimate only and not a limitation on fees and expenses.

3. *Retainer*

Generally, our firm requires a retainer from you before commencing work on your behalf. The retainer will be applied as a credit against our firm's invoices. With respect to the provisional application that you have requested us to file by December 8, 2000, please send us a retainer of \$500. If you decide to follow-up with an international PCT application (which must be filed by March 27, 2001), we request an additional retainer of \$7,000, which represents half of our initial estimate of \$14,000 for preparing and filing the PCT application. We request your instructions regarding the PCT application, and if you decide to go forward, the retainer of \$7,000, by January 27, 2001.

4. *Invoices*

Our firm will bill you on a monthly basis (dated the 25th day of each month) for our firm's fees in connection with the representation of you during the preceding month. Additionally, our firm's invoices can include significant anticipated expenses for the following month. Our firm will forward its monthly invoices and statements to your attention, unless otherwise directed. Payment of our firm's invoices is due immediately and is in no way contingent on the ultimate outcome of any course of action. It is our firm's understanding that you will pay our firm's invoices within thirty days of receipt. Failure to timely pay the firm's invoices can result in our firm's terminating its representation of you.

5. *Retention of Other Professionals*

The particular nature of our firm's representation of you may require the retention of other professionals, such as local counsel, expert witnesses, and foreign associates. When our firm deems it appropriate to the nature of our firm's representation of you, and unless you instruct us otherwise, our firm will retain such other professionals on your behalf. However, you acknowledge that such other professionals are engaged by you and that you are directly responsible for fees and expenses incurred by them.

6. *Representations as to Outcome*

Our firm may express views concerning the outcome of various courses of action. While our firm will always endeavor to give you a candid and accurate assessment in that respect, any

Peter J. Ortoleva, Ph.D.
December 6, 2000
Page 3

such views will be an expression of our firm's opinion based on information available to us at the time and will not be any promise or guarantee.

7. *Conflicts*

Our firm represents many other companies and individuals. It is possible that some of our firm's present or future clients may have transactions and/or disputes with you. You acknowledge that our firm's representation of you does not prevent our firm from representing other clients adverse to you as long as their transactions and/or disputes with you do not involve the disclosure or use of confidential information of or concerning you obtained as a result of our firm's representation of you that, if known to such other clients, could be used to your material disadvantage.

8. *Indiana University*

As you know, we represent Indiana University. By asking for our representation on any matter, you are representing to us that there is no dispute or controversy between you and Indiana University and/or ARTI (Advanced Research and Technology Institute, Inc.) regarding the matter for which you seek our representation. You agree that should a conflict develop between you and Indiana University and/or ARTI that our firm may represent Indiana University and/or ARTI against you and that you will not move to prevent us from representing Indiana University and/or ARTI.

9. *Term of Representation*

Either of us may terminate our firm's representation of you at any time for any reason, subject to the applicable rules of professional conduct and any court and patent office rules and regulations. Termination of our firm's representation of you does not relieve you from the responsibility to pay fees and expenses.

If you have any questions regarding the terms of our firm's representation of you at any time, please do not hesitate to contact our firm. We appreciate the opportunity to represent you, and we trust that our association will be pleasant and long-lived.

Very truly yours,

LEYDIG, VOIT & MAYER, LTD.

By:



Salim A. Hasan

SAH/dlh

cc: Carleen Culleton (LVM Docketing)
Bruce M. Gagala
Mark Joy
Rattan Nath



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September 10, 2003

*Via Facsimile
Confirmation by Courier*

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OF COUNSEL:

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†RESIDENT IN SEATTLE OFFICE

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Technology Center 2100

Peter J. Ortoleva, Ph.D.
Indiana University
Department of Chemistry
Room C-203
Bloomington, Indiana 47405

Re: Outstanding Account Balance - \$3,696.32

Dear Dr. Ortoleva:

We are in receipt of your e-mail of August 22, 2003. Needless to say, we are extremely disappointed that you are unwilling to pay your bills for work that you requested.

To facilitate our discussion, enclosed please find a copy of our letter to you dated December 6, 2000 (the "engagement letter"), which sets forth the terms of our representation of you. As indicated in the letter, you agreed to these terms by your continuing request for us to do legal work for you. As explained in section 2 of the letter, our firm determines what we charge our clients for legal services by our attorneys and legal assistants primarily on a per hour basis. Thus, the extent of your bills correlates to the nature and amount of work you asked us to do.

The engagement letter set forth an estimate for filing an initial PCT application at \$14,000; that application subsequently was filed on March 27, 2001 (identified as PCT serial number PCT/US01/09760). Later you also asked us to file a U.S. application on that same date (identified as U.S. Patent Application No. 09/818,752). The U.S. application was not mentioned in the estimate found in the engagement letter because it was an additional filing (which you requested). Further, you then asked us to file more applications for you.

Again at your request and according to your instructions, we filed two more applications, namely, U.S. Application No. 10/017,829 and PCT Application No. PCT/US01/48589, on December 7, 2001. Like all of your prior applications, the technical subject matter of the subsequent applications was quite complex and involved some 70 pages of text and a significant number of figures to describe the invention. In addition, you asked us to incorporate biological uses into the applications filed on December 7, 2001, and we did so at a very heavy discount for you. All told, we filed six patent applications for you, including the two provisional applications.

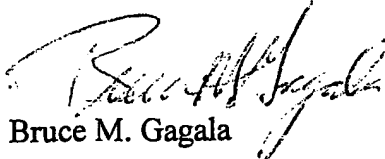
We have been trying to work with you to resolve your account for quite a long time. We have sent you reminder statements at least as far back as January 31, 2003. (A copy of that particular statement is enclosed.) We then followed up with monthly reminder statements ever since. We have tried repeatedly to contact you via email and voicemails over the past eight months about your outstanding account balance, and we even offered to negotiate a payment plan that would satisfy both of us, all to no avail.

Inasmuch as our relationship concerning these matters is with you personally, and not Indiana University or ARTI, we do not consider it appropriate for Indiana University to "mediate" this issue. Because of the significant amount of time that you have delayed payment of your outstanding account balance, and your clear statements in your August 22, 2003 email, we have no choice but to send your account to Dun & Bradstreet to begin collection proceedings. Nevertheless, in one last effort to reach an amicable resolution to this matter, we will refrain from sending your account for collection until September 19, 2003.

Furthermore, pursuant to section 9 of the engagement letter, our firm has decided to terminate its relationship with you. Please let us know by September 19, 2003 the identity of your new patent counsel so that we may transfer your files to your new attorneys. If we do not hear from you by September 19, 2003, we will ship the files to you at your above-identified address. Regarding your files, we wish to again remind you that you still need to submit Information Disclosure Statements for both of your pending U.S. applications. While we regret that we have had to terminate our relationship with you, we wish you the best of luck and success with what you once considered to be promising technology.

Very truly yours,

LEYDIG, VOIT & MAYER, LTD.



Bruce M. Gagala

BMG/mjd
Enclosures

LAW OFFICES
LEYDIG, VOIT & MAYER, LTD.
SUITE 4900 TWO PRUDENTIAL PLAZA
CHICAGO, ILLINOIS 60601-6780
(312) 616-5600

WASHINGTON, D.C.
ROCKFORD, ILLINOIS

PLEASE
REMIT TO
CHICAGO OFFICE



WIRE FUNDS TO: AMERICAN NATIONAL BANK & TRUST CO. OF CHICAGO
120 SOUTH LA SALLE STREET, CHICAGO, ILLINOIS 60603-3400 ACCOUNT NO. 885975

J. ORTOLEVA, PH.D.
INDIANA UNIVERSITY
DEPARTMENT OF CHEMISTRY
ROOM C-203
BLOOMINGTON, IN 47405

Client Number
C0148 -000

----- REMINDER STATEMENT -----
January 31, 2003

Atty: BMG

The invoice(s) listed below are unpaid as of the above date. Please check your records. If invoices are recently paid, disregard statement. If you need any copies or find any discrepancies contact me at:

Phone: (312) 616-5715 / E-mail: jsimmons@leydig.com / Fax: (312) 616-5700

Joni Simmons

INVOICE NUMBER	AMOUNT	DATE	PAYMENTS OR ADJUSTMENTS	REMAINING BALANCE
684867	\$458.00	12/25/2001	\$377.44	\$80.56
693675	802.50	1/25/2002	716.00	86.50
698191	2,392.50	2/25/2002	2,350.00	42.50
703932	37.70	3/25/2002	.20	37.50
716763	44.00	5/25/2002		44.00
722954	1,360.47	6/25/2002		1,360.47
729007	839.71	7/25/2002		839.71
735437	1,049.00	8/25/2002		1,049.00
746099	156.08	10/25/2002		156.08

TOTAL BALANCE \$3,696.32

Current Invoices.....
31-60 Days Past Due...
61-90 Days Past Due...
91-120 Days Past Due.. \$156.08
Over 120 Days Past Due \$3,540.24

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TECHNICAL ADVISORS
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KRISTOPHER T. LYNCH
LEONDO R. PHIFER

December 6, 2000

ALL RESIDENT IN CHICAGO OFFICE EXCEPT AS NOTED
*RESIDENT IN WASHINGTON OFFICE **RESIDENT IN ROCKFORD OFFICE
ALL LICENSED IN STATE OF RESIDENT OFFICE EXCEPT AS NOTED
*ADMITTED IN ILLINOIS ONLY

Peter J. Ortoleva, Ph.D.
Distinguished Professor of Chemistry
and Geological Sciences
Laboratory for Computational
Geodynamics, Director
Indiana University, Department of Chemistry
Room C203
Bloomington, Indiana 47405

Re: Terms of Legal Representation
Our Reference: 207706

Dear Peter:

We are pleased that you have considered engaging our firm, Leydig, Voit & Mayer, Ltd., to represent you. This letter sets forth the terms by which our firm will undertake that representation.

1. *Client and Scope of Representation*

Our firm's client is Peter J. Ortoleva, Ph.D., as an individual (also referred to as "you" herein). Leydig, Voit & Mayer, Ltd. will represent you in connection with intellectual property matters. Your continuing requests for and receipt of our firm's services acknowledges your agreement with the terms of representation set forth herein. This document sets forth all the terms of our firm's representation of you, and these terms cannot be modified in writing by the legal representatives of our firm and you.

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2. *Fees and Expenses*

The fees of our firm will be based upon our firm's determination of the value of our firm's services and the expenses (including out-of-pocket disbursements) our firm incurs as a result of our firm's representation of you. Our firm determines the value of our firm's services primarily through analysis of the time required by the lawyers and legal assistants of our firm to handle matters relating to the representation at nominal hourly rates based upon the experience and respective contributions of such lawyers and legal assistants. The current hourly rates for attorneys and technical assistants in our firm range from \$110 to \$375, and the hourly rates for legal assistants range from \$50 to \$100. The assigned hourly rates are adjusted from time-to-time (generally once a year) and are subject to change during the course of the representation. Any estimate of fees and expenses is an estimate only and not a limitation on fees and expenses.

3. *Retainer*

Generally, our firm requires a retainer from you before commencing work on your behalf. The retainer will be applied as a credit against our firm's invoices. With respect to the provisional application that you have requested us to file by December 8, 2000, please send us a retainer of \$500. If you decide to follow-up with an international PCT application (which must be filed by March 27, 2001), we request an additional retainer of \$7,000, which represents half of our initial estimate of \$14,000 for preparing and filing the PCT application. We request your instructions regarding the PCT application, and if you decide to go forward, the retainer of \$7,000, by January 27, 2001.

4. *Invoices*

Our firm will bill you on a monthly basis (dated the 25th day of each month) for our firm's fees in connection with the representation of you during the preceding month. Additionally, our firm's invoices can include significant anticipated expenses for the following month. Our firm will forward its monthly invoices and statements to your attention, unless otherwise directed. Payment of our firm's invoices is due immediately and is in no way contingent on the ultimate outcome of any course of action. It is our firm's understanding that you will pay our firm's invoices within thirty days of receipt. Failure to timely pay the firm's invoices can result in our firm's terminating its representation of you.

5. *Retention of Other Professionals*

The particular nature of our firm's representation of you may require the retention of other professionals, such as local counsel, expert witnesses, and foreign associates. When our firm deems it appropriate to the nature of our firm's representation of you, and unless you instruct us otherwise, our firm will retain such other professionals on your behalf. However, you acknowledge that such other professionals are engaged by you and that you are directly responsible for fees and expenses incurred by them.

6. *Representations as to Outcome*

Our firm may express views concerning the outcome of various courses of action. While our firm will always endeavor to give you a candid and accurate assessment in that respect, any

Peter J. Ortoleva, Ph.D.
December 6, 2000
Page 3

such views will be an expression of our firm's opinion based on information available to us at the time and will not be any promise or guarantee.

7. *Conflicts*

Our firm represents many other companies and individuals. It is possible that some of our firm's present or future clients may have transactions and/or disputes with you. You acknowledge that our firm's representation of you does not prevent our firm from representing other clients adverse to you as long as their transactions and/or disputes with you do not involve the disclosure or use of confidential information of or concerning you obtained as a result of our firm's representation of you that, if known to such other clients, could be used to your material disadvantage.

8. *Indiana University*

As you know, we represent Indiana University. By asking for our representation on any matter, you are representing to us that there is no dispute or controversy between you and Indiana University and/or ARTI (Advanced Research and Technology Institute, Inc.) regarding the matter for which you seek our representation. You agree that should a conflict develop between you and Indiana University and/or ARTI that our firm may represent Indiana University and/or ARTI against you and that you will not move to prevent us from representing Indiana University and/or ARTI.

9. *Term of Representation*

Either of us may terminate our firm's representation of you at any time for any reason, subject to the applicable rules of professional conduct and any court and patent office rules and regulations. Termination of our firm's representation of you does not relieve you from the responsibility to pay fees and expenses.

If you have any questions regarding the terms of our firm's representation of you at any time, please do not hesitate to contact our firm. We appreciate the opportunity to represent you, and we trust that our association will be pleasant and long-lived.

Very truly yours,

LEYDIG, VOIT & MAYER, LTD.

By:



Salim A. Hasan

SAH/dlh

cc: Carleen Culleton (LVM Docketing)
Bruce M. Gagala
Mark Joy
Rattan Nath